

**§ 1479.113 Determination of production.**

(a) Production under this part shall include all harvested production, unharvested appraised production and assigned production for the total planted acreage of the crop on the unit.

(b) The harvested production of eligible crop acreage harvested more than once in a crop year shall include the total harvested production from all these harvests.

(c) If a crop is appraised and subsequently harvested as the intended use, the actual harvested production shall be used to determine benefits.

(d) For all crops eligible for loan deficiency payments or marketing assistance loans with an intended use of grain but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped, production will be adjusted based on a whole grain equivalent as established by CCC.

(e) For crops with an established yield and market price for multiple intended uses, a value will be calculated for each use with:

(1) The intended use or uses for disaster purposes based on historical production and acreage evidence provided by the producer; and

(2) The eligible acres for each use and the calculation of the disaster payment will be determined by the county committee according to instructions issued by the Deputy Administrator.

(f) For crops sold in a market that is not a recognized market for the crop with no established county average yield and market price, 60 percent of the salvage value received will be deducted from the disaster payment.

(g) If a producer does not receive compensation based upon the quantity of the commodity delivered to a purchaser, but has an agreement or contract for guaranteed payment for production, for purposes of determination the production shall be the greater of the actual production or the guaranteed payment converted to production as determined by CCC.

(h) Production that is commingled between units before it was a matter or combination of record and cannot be separated by using records or other means acceptable to CCC shall be prorated to each respective unit by CCC.

Commingled production may be attributed to the applicable unit, if the producer made the unit production of a commodity a matter of record before commingling and does any of the following, as applicable:

(1) Provides copies of verifiable documents showing that production of the commodity was purchased, acquired, or otherwise obtained from beyond the unit;

(2) Had the production measured in a manner acceptable to the county committee; or

(3) Had the current year's production appraised in a manner acceptable to the county committee.

(i) The county committee shall assign production for the unit when the county committee determines that:

(1) The producer has failed to provide adequate and acceptable production records;

(2) The loss to the crop is because of a disaster condition not covered by this part, or circumstances other than natural disaster, and there has not otherwise been an accounting of this ineligible cause of loss;

(3) The producer carries out a practice, such as multiple cropping, that generally results in lower yields than the established historic yields;

(4) The producer has a contract to receive a guaranteed payment for all or a portion of the crop.

(5) A crop was late-planted;

(6) Unharvested acreage was not timely appraised; or

(7) Other appropriate causes exist for such assignment as determined by the Deputy Administrator.

(j) For peanuts, the actual production shall be all peanuts harvested for nuts, regardless of their disposition or use, as adjusted for low quality.

(k) For tobacco, except flue-cured and burley, the actual production shall be the sum of the tobacco: marketed or available to be marketed; destroyed after harvest; and produced but unharvested, as determined by an appraisal. For flue-cured and burley tobacco, the actual production shall be the sum of the tobacco: marketed, regardless of whether the tobacco was produced in the current crop year or a prior crop year; on hand; destroyed after harvest; and produced but

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unharvested, as determined by an appraisal.

### **§ 1479.114 Calculation of acreage for crop losses other than prevented planted.**

(a) Acreage shall be calculated using the number of acres shown to have been planted to a crop.

(b) In cases where there is a repeat crop or a multiple planted crop in more than one planting period, or if there is multiple cropped acreage meeting criteria established in paragraph (c) or (d) of this section, each of these crops may be considered separate crops for 2003, 2004, or 2005 CDP if the county committee determines that all of the following conditions are met:

(1) Both the initial and subsequent planted crops were planted with the intent to harvest;

(2) Both the initial and subsequent planted crops were planted within the normal planting period for that crop;

(3) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices; and

(4) Each planting could reach maturity if each planting was harvested or would have been harvested.

(c) In cases where there is multiple-cropped acreage, each crop may be eligible for disaster assistance separately if both of the following conditions are met:

(1) The specific crops are approved by the State Committee as eligible multiple-cropping practices in accordance with procedures approved by the Deputy Administrator; and

(2) The farm containing the multiple-cropped acreage has a history of successful multiple cropping based on timely filed crop acreage reports.

(d) Producers with multiple-cropped acreage not meeting the criteria in paragraph (c) of this section may be eligible for disaster assistance on more than one crop if the producer has verifiable records establishing a history of carrying out a successful multiple-cropping practice on the specific crops for which assistance is requested. All required records acceptable to CCC as determined by the Deputy Administrator must be provided before payments are issued.

(e) Producers with multiple-cropped acreage not meeting the criteria in paragraphs (c) or (d) of this section must select the crop for which assistance will be requested. If more than one producer has an interest in the multiple cropped acreage, all producers must agree to the crop designated for payment by the end of the application period or no payment will be approved for any crop on the multiple-cropped acreage.

(f) Benefits under this part shall apply to irrigated crops where the acreage was affected by a lack of water or contamination by saltwater intrusion of an irrigation supply resulting from drought conditions.

### **§ 1479.115 Calculation of prevented planted acreage.**

(a) When determining losses under this part, prevented-planted acreage will be considered separately from planted acreage of the same crop.

(b) Except as provided in paragraph (c) of this section, for insured crops, disaster payments under this part for prevented-planted acreage shall not be made unless RMA documentation indicates that the eligible producer received a prevented planting payment under the RMA-administered program.

(c) For insured crops, disaster payments under this part for prevented-planted acreage will be made available for the following crops for which prevented planting coverage was not available and for which the county committee will make an eligibility determination according to paragraph (d) of this section: peppers; sweet corn (fresh market); tomatoes (fresh market); tomatoes (processing).

(d) The producer must prove, to the satisfaction of the county committee, an intent to plant the crop and that such crop could not be planted because of an eligible disaster. The county committee must be able to determine the producer was prevented from planting the crop by an eligible disaster that:

(1) Prevented other producers from planting on acreage with similar characteristics in the surrounding area; and

(2) Occurred after the previous planting period for the crop.